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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,984

11/03/2003

Taku Aida

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EXAMINER

JOHNS, CHRISTOPHER C

ART UNIT

PAPER NUMBER

3621

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/699,984	<b>Applicant(s)</b> AIDA ET AL.	
	<b>Examiner</b> Christopher C. Johns	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

*Acknowledgements*

1. This Office Action is given Paper No. 20090904 for reference purposes only.
2. This Office Action is in response to the Response to Non-Final Office Action, filed 22 May 2009.
3. All references to the capitalized version of “Applicant” refer specifically to the Applicant or Applicants of record in the instant application. Any references to lowercase versions of “applicant” or “applicants” refer to any or all patent applicants. Unless expressly noted otherwise, references to the capitalized version of “Examiner” refers to the Examiner of record while reference to or use of the lower case version of “examiner” or “examiners” refers to examiner(s) generally. The notations in this paragraph apply to any future Office actions from this Examiner.
4. Claims 1 and 6 are pending.
5. Claims 1 and 6 have been examined.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication 2002/0157002 ("Messerges") in view of United States Patent 6,223,226 ("Miyahara").

8. As per claims 1 and 6, Messerges discloses:

9. server (figure 2, reference 210) operable to provide software via a network (figure 2, reference 216 - "Gateway Service") to a plurality of electronic devices (figure 2, reference 216 - "Domain") in response to a request to purchase or transfer the same (§38 - "any portable device can request a piece of this content");

10. at least two electronic devices (figure 2, reference 216, "Domain"; figure 3, reference 216, portable devices), each of the devices being identified by device identification information (figure 4, reference 202<sub>2</sub>) registered in association with user identification information identifying a single user (figure 4, reference 410) such that each of the devices have the same user associated therewith (§27 - "domain-based approach in which the user must contend with security only when a new user device is to be purchased or added to a domain or when an old user device is to be removed from a domain");

11. devices including requesting means for sending user identification information (§37 - "content provider can query the user device...to authenticate a particular domain"), device

identification information (§77 - "user device's private key"), software identification information (§38 - "Any portable device can request a piece of the content"), to the server to request the software be provided and that a license request to run the software be generated based on predetermined license generating information and be provided to the electronic device (§48 - "only be available to the owner or purchaser of the content"; §49 - "As indicated by the dashed line, the objects of the content package...license file containing the content provider header...encrypted content");

12. installing means for installing the selected software provided from the server (§38 - "host merely transfers the content to the requesting device without performing a check-out operation");

13. requesting means for requesting that the server transfer the software from the device to another of the devices having the same user associated therewith (§38 - "any portable device can request a piece of this content");

14. server including registering means for registering the software identification information for the selected software in association with the user identification information and device identification information for the device on condition that the user and device information have been registered in association with one another (§38 - "devices outside of this domain cannot access content that was cryptographically tied to another domain, so this content is safe from piracy");

15. providing means for providing the selected software to the device (§38 - "host merely transfers the content to the requesting device without performing a check-out operation");

16. generating means for generating the license when the software, device, and user information have been registered in association with one another (§48 - "only be available to the

owner or purchaser of the content"; ¶49 - "As indicated by the dashed line, the objects of the content package...license file containing the content provider header...encrypted content");

17. transferring means for, upon a request by the third requesting means of the electronic device to transfer the software, deleting the software identification information for the software and the user and device information registered in association with the software information for the respective device (¶70 - "if the user wishes to remove a device from a domain..."), and registering the software information for the software in association with the device information for the other electronic device and the user information, such that the respective device is prohibited from purchasing software (if the device is not part of a domain, it cannot acquire or purchase content on behalf of that domain) and such that the other device is allowed to run the software (¶38 - "devices outside of this domain cannot access content that was cryptographically tied to another domain, so this content is safe from piracy").

18. Messerges does not explicitly disclose:

19. means for causing information to be supplied to the respective electronic device which identifies each device currently available to receive the selected software by transfer if a request to do so is made;

20. transferring software to a device which is selected by use of the information which identifies said each electronic device currently available to receive the selected software by transfer;

21. providing the information which identifies said each electronic device currently available to receive the selected software by transfer to the respective electronic device to enable a selection.

22. Miyahara teaches:

23. means for causing information to be supplied to the respective electronic device which identifies each device currently available to receive the selected software by transfer if a request to do so is made (claim 2 - “a distribution information list”);

24. transferring software to a device which is selected by use of the information which identifies said each electronic device currently available to receive the selected software by transfer (claim 2 - “extracting at least one distribution device corresponding to a destination from a distribution information list, and selecting a distribution device”);

25. providing the information which identifies said each electronic device currently available to receive the selected software by transfer to the respective electronic device to enable a selection (claim 2 - “distributing the data to the destination using the distribution device selected by the selector at a distribution data output apparatus”).

26. Miyahara teaches the distribution of data to selectable devices in order route data to appropriate devices that users select. A person having ordinary skill in the art would see this as advantageous because it creates a system that allows for a more finely-controllable system.

27. Therefore, it would have been obvious to a person having ordinary skill in the art to include in Messerges the selection of the destination node as taught by Miyahara, since the claimed invention is merely a combination of old elements, and in the combination, each element

merely would have performed the same function as it did separately. A person having ordinary skill in the art would have recognized that the results of the combination were predictable, as well as advantageous because it would create a more finely-controllable system, which allows a user to direct “multi-media communications” (Abstract) to a specific computer.

### ***Response to Arguments***

28. Applicants’ arguments with respect to the claims have been considered but are moot in view of the new ground of rejection. They argue limitations that were not previously in the claims – as they have been fully addressed in this Office Action, the arguments are overcome.

### ***Conclusion***

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

30. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher C. Johns whose telephone number is (571)270-3462.

The examiner can normally be reached on Monday - Friday, 9 am to 5 pm.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

33. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher C Johns/  
Examiner, Art Unit 3621

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 3685